

Delegated decision report

DECISION UNDER DELEGATED POWERS

**DECISION CANNOT BE TAKEN BEFORE THURSDAY, 27
SEPTEMBER 2012**

Title	PROPOSED SALE OF RYDE THEATRE / TOWN HALL, RYDE
Report To	THE DEPUTY LEADER AND CABINET MEMBER FOR THE ECONOMY AND REGULATORY SERVICES

EXECUTIVE SUMMARY

1. To approve the sale of the council's freehold interest in Ryde Theatre / Town Hall for the sum of £400,000, the best offer received.
2. The outcome will be a capital receipt from this sale towards the annual capital receipts target as set out in the council's medium term financial plan and in accordance with the strategic asset management plan approved in 2011. It will also result in the building being retained as a theatre for at least the short term, the public toilets maintained at no cost to the council and public access to the organ maintained.

BACKGROUND

3. Ryde Theatre is a Grade II listed detached Victorian property originally opened in 1831 as the market house and town hall for Ryde. It was designed by the London architect James Sanderson as part of the redevelopment of the town centre. The current 500 capacity theatre opened in 1991.
4. As Ryde Theatre is a listed building it is defined in Planning Policy Statement 5 as a "designated heritage asset", the disposal of which is covered within the Disposal of Heritage Assets Guidance Note for Government Departments and non departmental public bodies produced by English Heritage. The council has followed this guidance in pursuance of the disposal.
5. The building is arranged over two and three floors, with the ground floor being predominantly office accommodation plus public toilets on the western side fronting St James' Street. The southern Lind Street side of the building includes a war memorial which will remain in the council's ownership.
6. The upper floors of the building incorporate the theatre, old council chambers, a bar and kitchen area plus various ancillary areas such as changing rooms, prop rooms and support offices. At the very top of the building there is a roof terrace offering panoramic views over Ryde and the Solent.

7. The theatre area houses an organ originally installed in 1897 to commemorate the Diamond Jubilee of Queen Victoria. The original organ was destroyed by fire in 1933 and was replaced by the current instrument in 1934. By 1980 the organ had become unplayable and Medina Borough Council applied to the Carnegie Trust for a grant of £10,000 to restore it in 1986. The Carnegie Trust imposed conditions within the grant that the organ was to be maintained by a Charitable Trust which would ensure the promotion of the organ for enjoyment by the public. The Carnegie Trust has confirmed that there are no specific requirements needing to be considered relating to the 1986 Grant.
8. Under the terms of the 1986 Deed of Trust, the council did have the option of removing the organ from the town hall during a 21 year period from 1985. During this time alternative sites were considered but the costs of moving the organ were the prohibiting factor. The building has therefore been marketed on the basis that instrument remains in-situ and the purchaser covenants to allow, by prior arrangement, continued public access to it.
9. The cabinet first considered the management arrangements for Ryde and Shanklin theatres in July 2007 when it agreed that development options for both theatres should be prepared, following which they would be offered to the market with the intention of keeping them open.
10. The estimated cost of refurbishing Ryde theatre in January 2009 was £1.8M and Cabinet decided that the council should:
 - Seek proposals from commercial operators for the redevelopment and management of Ryde theatre making provision for sufficient community use at no cost to the council.
 - Seek proposals from community groups to undertake the management and maintenance of Ryde Theatre at no cost to the council.
11. The property was advertised for sale on this basis in April 2009 and interest and viewings were generated. Negotiations were undertaken which yielded interest from three parties. These were invited for interviews in August 2009 and their respective bids and proposals assessed for financial and community benefit.
12. As a result of this process, a preferred bidder was selected and terms were drafted for the transfer of the building. Unfortunately this period coincided with the economic downturn and the selected party subsequently struggled to secure its anticipated funding. Negotiations continued but the party finally announced its withdrawal from the purchase in March 2011.
13. As the main part of the property, the theatre, was closed in April 2010 there was a major concern that the building would remain vacant and fall into further disrepair. As a consequence the property was re-advertised for sale in October 2011; this was on an unrestricted basis except for allowing access to the organ and consideration of the re-opening of the public toilets either by the council or the purchaser.
14. Although the theatre is closed, the Town Hall offices remain in use by the council for storage purposes only. This storage is currently being rationalised and will be moved to corporate storage facilities over the coming months, with the intention being to give vacant possession of the entire building before 31 December 2012.
15. Marketing advice was sought from the five agents on the council's commercial agency framework. The current condition of the building as well as the unique opportunities and constraints which the property presents resulted in varied advice and marketing

recommendations. Indeed figures quoted ranged from a negative value to £400,000 depending on the individual agent's views on the condition of the property and the market demand.

16. The successful agent was appointed and marketing commenced in late December 2011 with an advertised asking price of offers in the region of £400,000. The availability of the property was advertised through a 'For Sale' banner on site, and the agent's website, as well as marketing in the County Press and the Estates Gazette (the main national property publication).
17. Interest was consistent from the outset and initial offers were received of £150,000, and £199,000. Several other parties that had viewed the property also advised that they were going to make an offer and, in light of this, in an attempt to realise these offers, a decision was taken to draw the marketing to a close via a best and final offer process. An advert was published on 4 May 2012 to this effect, seeking best and final offers for the site by Friday 11 May 2012. This produced a further strong response and four offers were received all from applicants which intended to re-open the building as a theatre / events venue. The two highest offers were £390,000 and £400,000. There was no requirement for any bidder to use the building as a theatre / events venue; therefore, whilst the proposed use is in accordance with the council's previous aspirations for the building the sale cannot be conditional on it only being used for these purposes.
18. In accordance with the English Heritage Guidance Note the proposed purchaser has provided evidence of its funding source and has confirmed in writing its intention to re-open and manage the public toilets itself and is happy to allow continued public access to the organ. The marketing agents have, therefore, recommended the £400,000 offer for acceptance.

STRATEGIC CONTEXT

19. In December 2010 the council's cabinet agreed the future shape and direction of the organisation of which one of the key principles is "the council will actively seek to sell or dispose of assets that are surplus to requirements where practicable to maximise capital receipts, or lease them where it is not."
20. The disposal of council assets will contribute towards a number of the Isle of Wight Council's priorities, as detailed in the Corporate Plan for 2011-2013.
 - Delivery of budget savings through changed service provision: delivering services in different ways will allow the release of council buildings thereby creating significant savings of accommodation and maintenance costs, as well as generating capital receipts.
 - Regeneration and the Economy: seeking the best quality use of surplus/disused property assets may ensure high quality regeneration opportunities are realised.
21. The disposal is identified in the strategic asset management plan approved in 2011.
22. If this property is disposed of it will release a capital receipt into the council's corporate account as part of the annual capital receipts target.

CONSULTATION

23. A briefing with some local members took place on the 12 September 2012 where the proposals contained in this report were generally welcomed for their potential to bring life back to the building and the part of the town where the theatre is situated. Some issues of concern were raised including: -

- The need to agree with the purchaser as part of the sale conditions a minimum standard of maintenance of the public conveniences.
- The need to agree with the purchaser as part of the sale conditions minimum hours of opening of the public conveniences.
- Consideration be given to an overage clause being inserted into the sale conditions should the building be converted to residential use.

Two local members have confirmed since the briefing, that they are against the sale of the theatre and that they wished to see the Town Council and local people consulted over any potential use of the building. Other local members have confirmed that they will make written representations to be taken into account when the delegated decision is made by the cabinet member.

24. Officers within planning, finance, legal and risk management, the director of resources and the deputy director of economic development have all been consulted on this decision. Any further comments received will be considered when this delegated decision is taken by the cabinet member.

25. One of the two remaining Trustees of the Ryde Town Hall Organ Trust has been consulted with and has indicated that there are no objections, in principle, to the proposed sale, as long as appropriate covenants are included in relation to the organ.

FINANCIAL / BUDGET IMPLICATIONS

26. The council is currently liable for all outgoings in respect of the vacant property such as business rates and insurance plus any ongoing maintenance liabilities. It is therefore in the council's best interest to dispose of the property as soon as possible. To mitigate against such outgoings, the council was in receipt of empty business rates relief, on the vacant parts of the property, however, this rates relief period has now expired. Any revenue budget savings arising from disposal of this property will contribute to the council's savings target for accommodation costs.

27. As part of the best and final bids process the interested parties were asked to submit offers reflecting whether or not they would take over the management of the Lind Street public conveniences, which form part of the theatre building. The revenue cost for these has been calculated at £10,800 per annum (which covers maintenance, cleaning, business rates, and utility costs).

28. Party A, which offered £390,000 is not willing to manage the toilets itself, whereas Party B, which offered £400,000, is willing to manage the public toilets at no cost to the council. A valuation exercise has been undertaken to assess the added value of the revenue costs, in perpetuity, of managing the public conveniences and, adopting a conservative yield of 10%, it is calculated that this is worth in excess of £100,000.

29. If the recommendation made within this report is adopted the council will benefit from a capital receipt in the sum of £400,000.

LEGAL IMPLICATIONS

30. The council currently holds the property on a freehold basis.
31. The council will retain ownership of the war memorial on the southern side of the building.
32. There will be a covenant in the transfer requiring the buyer to keep the toilets open and available for use by the public.
33. Whilst it is considered that the council has no obligation to ensure that a new purchaser of the building maintains public access to the organ, the purchaser the transfer.
34. The land and public right of way beneath the porticos on the southern and eastern side of the building will not be included in the transfer and will continue to be maintained by the Council as Highway Authority.
35. Whilst the English Heritage Guidance Note is not mandatory it does provide elements of best practice for the public sector including Local Authorities and it is therefore considered that the proposed purchaser's monetary offer together with its confirmation that it wishes to re-open the building as a theatre / events venue proves that it provides the best available overall value for money as recommended by the Guidance.
36. The council has the ability to dispose of property under Section 123 of the Local Government Act 1972 for best consideration.
37. The council will endeavour to exchange contracts for the sale as soon as possible although vacant possession will not be given until 31 December 2012 at the latest and, with the proposed purchaser's willingness to complete, a sale can take place shortly after the property has been fully vacated.

CARBON EMISSIONS

38. During the last financial year, this building was not fully in use and therefore has reduced energy consumption. A Carbon saving of approximately 141tCO₂ was identified for the disposal of this building within the Carbon Management Plan but as a result of its reduced use during the last year, it has already saved circa 100tCO₂ of that.
39. As a direct result of this disposal, a carbon saving of 35tCO₂ will be achieved, representing £420 annual revenue saving from the CRC Energy Efficiency Scheme

PROPERTY IMPLICATIONS

40. It is considered that property implications are adequately covered within the main body of this report.

EQUALITY AND DIVERSITY

41. The council as a public body is subject to general and specific duties under equality and diversity legislation and as such has a duty to impact assess its service, policies/strategies

and decisions with regards to diversity legislation and the nine “protected characteristics (race, gender reassignment, disability, age, sex and sexual orientation, religion or belief, pregnancy and maternity, marriage and civil partnership).

42. The closure of the theatre was covered by previous reports which addressed the issues of public access, and the relocation of the Community and Wellbeing Directorate services from the building including equality impact assessments which addressed any service issues at that time.
43. A stage 1 equality impact assessment initial screening form has been completed for this potential sale (available as a background paper); this has also not identified any negative impacts from this proposal. This report, therefore, considers that none of the identified groups are likely to be adversely affected by this decision

SECTION 17 CRIME AND DISORDER ACT 1998

44. There are not believed to be any specific crime and disorder issues, other than vacant properties can be prone to vandalism and it is therefore in the council's interests to dispose of the building as soon as possible.

OPTIONS

45. Options have been considered in respect of this property as follows:
 - (a) To sell the property as detailed in the report and accept the offer of £400,000 from Party B.
 - (b) To continue to market the property for a longer period in the hope of achieving a higher capital receipt.
 - (c) To retain ownership of the property, carry out any necessary repairs and use the building for council purposes.
 - (d) To retain ownership of the property, carry out necessary repairs and improvements, and let to a private occupier.

RISK MANAGEMENT

46. Option (a) represents limited risk to the council as it has followed a robust marketing route that has included research into the funding method/ability of the proposed purchaser.
47. Option (b) comprises a high risk as the existing applicant may withdraw. Also, due to the level of exposure to the market, it is unlikely that a better offer may be received. Indeed the major risk of this course of action would be that a lower offer ultimately has to be agreed, particularly in light of the potential for continued falls in the property market.
48. Under option (c) retaining the property for further corporate use is not advisable, due to the layout and condition of the building and the fact that there is no identifiable council use for the building.
49. Option (d) would leave the council with on-going property management liabilities. In addition, if the council was to pursue this route it is difficult to predict exactly what

alternative uses would be demanded by the market and what works would be required to enable such use, with a medium to high risk of opting for a use with limited or no demand.

EVALUATION

50. The availability of the property without restriction or condition has been marketed widely. However, this marketing has coincided with a time of continued uncertainty within the property markets. Whilst several applicants have viewed the property, the agents consider it unlikely that a higher offer will be received and, therefore, option (b) is not recommended.
51. Option (c) would involve the council in considerable work and cost to meet the current backlog of repairs to the property and potentially achieve compliance with the Equality Act requirements. One of the principal elements of the delivery of budget savings through changed service provision is the disposal of surplus properties. Where properties are no longer fit for purpose it makes sense for them to be disposed of in accordance with this objective. Retaining the property for further corporate use is not advisable, due to the layout and condition of the building, and the fact that the council has taken a formal decision not to continue operating it as theatre/live music venue.
52. Option (d) would fail to achieve a capital receipt, would have ongoing revenue cost implications and necessitate some level of landlord management input.
53. Whilst the property was marketed without restriction as to use, all of the bidders stated that their proposed principal use was for theatre/venue purposes, with the best and final bids process resulting in the two highest bids being very similar to one another. As the council's previous aspiration for the building was to secure its continued use as a theatre/venue officers sought to clarify whether either of the highest bidders would be prepared to accept a condition of sale that the building be used as a theatre/venue for a minimum period. Neither was prepared to accept such a condition because that their bid had not been made on this basis and that the market for theatre/venue use would determine whether the building could continue to sustain such a use in the future. Nevertheless the fact that both bidders are prepared to consider such use is a positive outcome to the sale process
54. The property has been actively marketed for a period of over 4 months allowing a reasonable period of time for potential purchasers to arrange to bid for the facility and/or for local groups and organisations to make representations to the council in respect of its proposed sale. No such representations have been received. The publication of this report does provide a further and final opportunity for comments to be made both for and against the recommendations and before any decision to agree the recommendation is made.
55. To ensure that the council was achieving best consideration for this property, each of the highest bidders was asked to confirm its position regarding managing the public conveniences, and its ongoing use of the theatre. This resulted in the following clarification.

Party A

Offer: £390,000

Toilets: to be operated by the council

Theatre: would intend to operate the building as a theatre indefinitely, and plan to undertake other commercial activities in areas of the building which would in turn support the longevity of the theatre.

Party B

Offer: £400,000

Toilets: Party B to manage and operate at its own cost.

Theatre: the property is being purchased as a theatre/live venue, with associated complementary uses, and will continue to be used as such for as long as it is viable.

56. There is little difference between the offers as far as the use of the theatre is concerned, with one party “intending” its use to be indefinite, and the other for “as long as it is viable”. The principal difference, therefore, is the added value of the management of the toilets by Party B, the value of which equates to in excess of £100,000. In light of this and the continued uncertainty across the property market and the continuing uncertain economic climate, it is considered that option (a) is the recommended disposal path.

RECOMMENDATION

57. Option (a) - To sell the property as detailed in the report and accept the offer of £400,000 from Party B.

APPENDICES ATTACHED

58. [APPENDIX](#) - Site plan

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STUART LOVE
Strategic Director
Economy and Environment

COUNCILLOR GEORGE BROWN
Deputy Leader
and Cabinet Member for the Economy &
Regulatory Services

Decision

Signed

Date
